

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
SOUTHERN DIVISION

UNITED STATES OF AMERICA

v.

MATT NICKA

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Criminal Case No. 8:10-CR-00777-RWT-1

Hon. Judge Roger W. Titus

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**DEFENDANT NICKA'S JOINDER IN CO-DEFENDANT
PETERSON'S UNOPPOSED MOTION TO MODIFY
SCHEDULING ORDER (ECF DOCKET ENTRY # 923)**

COMES NOW, defendant MATT NICKA, by and through undersigned counsel, and hereby joins in co-defendant Gretchen Peterson's Motion on Consent to Modify Scheduling Order Filed December 11, 2014, ECF # 922, filed on December 12, 2014. Based on the files and records in this case, grounds presented in Ms. Peterson's motion, and further discussed below, there is good cause to vacate the presently set motions filing deadline of December 19, 2014, set a new scheduling order at the telephone status conference now set for January 5, 2015, and to toll all applicable speedy trial time limits pursuant to 18 U.S.C. § 3161(h)(1)(D), (h)(7)(A) and (h)(7)(B)(ii) or alternatively (iv).

As and for further support for this motion, undersigned counsel states as follows:

1. On December 11, 2014, Mr. Nicka made his initial appearance before Magistrate Judge Jillyn K Schulze, was arraigned and entered pleas of not guilty. This Court issued a Memorandum that same date directing all pretrial motions to be filed on or before December 19, 2014 and setting a status conference on January 5, 2015.

2. A continuance of the date for which pretrial motions are to be filed is respectfully needed to allow additional time for continuity of counsel and effective preparation, including, but not limited to, review of voluminous discovery, obtain and review any additional discovery, conduct independent defense investigation, consult with experts, preparation and litigation of pretrial motions, and further discussions with the Government regarding possible pretrial

resolution. Due to the voluminous discovery, complexities associated with the nature of this case, defense investigation needed to be completed, and undersigned counsel's conflicts in other matters, the present scheduling does not provide sufficient time to adequately and effectively prepare and represent Mr. Nicka in this matter.

3. The Second Superseding Indictment includes a conspiracy to distribute marijuana charge, spanning approximately 10 years, from about January of 2001 through January of 2011. In addition, defendants are charged with conspiracy to commit money laundering from 2003 through August of 2009, numerous additional substantive counts and criminal forfeiture allegations. The charges and the penalty, should defendants be convicted, is significant where they each face a mandatory minimum sentence of 10 years imprisonment and a maximum of life.

4. The recently received discovery, pursuant to a letter dated November 19, 2014, is voluminous, including, (7) CDs and (12) DVDs, and over 18,668 pages.

5. The remaining defendants charged in the Second Superseding Indictment in this case and pending trial, include, Matt Nicka, Gretchen Peterson and David D'Amico. Counsel has communicated with attorneys for the codefendants and the Government and all concur with the request to vacate the present motion's briefing schedule, and to propose a new schedule to be set at the status hearing now set for January 5, 2015.

6. Undersigned counsel believes, in light of the number of the large volume of discovery in the present case, the lengthy duration of this alleged conspiracy, that the alleged conspiracy involved multiple jurisdictions throughout the country, the mandatory minimum and maximum applicable penalties, and the general complexity of this case, that attorneys for the defendants, while exercising due diligence, will require additional time over and above the time limits established in 18 U.S.C. §3161 for effective preparation for pretrial proceedings and trial.

7. Mr. Nicka does not make this request simply for delay, but to allow him to be effectively represented in this serious case and necessary time to sufficiently prepare. In order that defendant's Fifth and Sixth Amendment rights to due process, a fair trial, effective assistance of counsel and time for adequate preparation are protected, and in the interests of justice, a

continuance is needed.

8. Undersigned counsel has explained the nature of this motion to Mr. Nicka and has been informed by him that he is willing to waive his right to a statutory and constitutional speedy trial based upon advice of counsel and based upon the reasons contained within this motion.

9. Therefore, time may be excluded in computing the time within which the trial of the above criminal prosecution must commence for purposes of the Speedy Trial Act, due to the complexities of this case, a pending motion related to codefendant D'Amico's representation, in order to provide counsel for defendants with the reasonable time necessary for effective preparation and to provide for continuity of counsel, pursuant to Title 18 U.S.C. § 3161(h)(1)(D), (h)(7)(A) and (h)(7)(B)(ii) or alternatively (iv).

WHEREFORE, Matt Nicka, by his undersigned attorney, respectfully moves the Court for an order vacating the previously set briefing schedule, and setting a new scheduling order at the status conference and toll all applicable time limits pursuant to 18 U.S.C. § 3161(h), finding that the ends of justice served by such a continuance outweigh the best interest of the public and the defendant in a speedy trial.

Date: December 16, 2014

Respectfully submitted,

/s/ James A. Bustamante
JAMES A. BUSTAMANTE
Cal. SBN 133675
Law Office of James A. Bustamante
809 Montgomery Street, 2nd Floor
San Francisco, CA 94133
Telephone 415/394-3800
Facsimile 415/394-3806
myke@jacksonsquarelaw.com

Attorney for Defendant
MATT NICKA

Certificate of Service

I hereby certify that on December 16, 2014, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to all attorneys of record.

/s/ James A. Bustamante
JAMES A. BUSTAMANTE
Cal. SBN 133675
Law Office of James A. Bustamante
809 Montgomery Street, 2nd Floor
San Francisco, CA 94133
Telephone 415/394-3800
Facsimile 415/394-3806
myke@jacksonsquarelaw.com

Attorney for Defendant
MATT NICKA